2314.

SUPREME COURT OF THE UNITED STATES,

No. 192.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

JOHN S. ROBERTS AND JAMES F. REED, SURVIVORS OF JAMES ADAMS.

IN ERROR TO THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF ILLINOIS.

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J. & G. S. Gideon, printers.

Pleas in the circuit court of the United States of America, for the district of Illinois, held at the city of Springfield, in the district aforesaid, before the honorable Nathaniel Pope, judge of the district court of the United States of America, for the district of Illinois, and in the absence pro tempore of the honorable John McLean, one of the justices of the Supreme Court of the United States, sole judge of said circuit court, on Saturday, the twentieth day of December, of the term of December, in the year of our Lord one thousand eight hundred and forty-five, and of our independence the 70th year.

THE UNITED STATES OF AMERICA
vs.
JOHN S. ROBERTS AND JAMES F. REED, survivors of James Adams, deceased.

DISTRICT OF ILLINOIS, *set:*

The United States of America, plaintiffs, put in their place J. Butterfield, their attorney, against John S. Roberts, James Adams, and James F. Reed, defendants, in a plea of debt.

DISTRICT OF ILLINOIS, *set:*

John S. Roberts, James Adams, and James F. Reed, defendants, put in their place Logan, Bledsoe, and Trumbull, their attorneys, at the suit of the said plaintiffs, in the plea aforesaid.

DISTRICT OF ILLINOIS, *set:*

Be it remembered, that on the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-two, the said plaintiffs, by their attorney, came into the clerk's office of said circuit court for the district aforesaid, and prayed that a writ of summons issue against said defendants, returnable to next December term, in the plea aforesaid. Debt $5000, damages $400; which was accordingly issued, as follows, viz:

Summons.

CIRCUIT COURT OF THE U. S. OF AMERICA,
District of Illinois, set:

The United States of America, to the marshal of the district of Illinois, greeting:

We command you that you summon John S. Roberts, James Adams, and James F. Reed, if they be found in your district, to be and appear before our judges of our circuit court of the United States, for the district of Illinois, at the next term thereof, to be holden at Springfield, in the district aforesaid, on the first Monday of December next, to answer unto the United States of America in a plea of debt of five thousand

dollars, damages four hundred dollars; and have you then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States of America, at Springfield aforesaid, this 29th day of June, in the year of our Lord one thousand eight hundred and forty-two, and of our independence the 66th year.

[SEAL.]

JAMES F. OWINGS, *Clerk*.

Endorsement on summons.

Upon the back of which writ is the following endorsement: This suit is brought on a bond, executed by the defendant, for the faithful performance of John S. Roberts of his duties as postmaster at Springfield, in the State of Illinois, which bond is signed by the said Roberts, as principal, and James Adams and James F. Reed, as his sureties. The amount appearing to be due, as by the præcipe, is $3,774 12.

JAMES F. OWINGS, *Clerk*
Circuit court U. S. A., Illinois.

Return of summons.

Which said writ was returned into the said clerk's office, with the following return endorsed thereon, on the 29th June, viz:

Executed this 29th of June, 1842, on all the within.

WILLIAM PRENTISS, *Marshal*.
By P. V. BERGEN, *Deputy*.

And afterwards, to wit, on the 3d day of December, in the year last aforesaid, came again the said plaintiffs, by their attorney, and filed oyer of bond and declaration, in the words and figures following:

Oyer of bond.—Oyer of bond.

Know all men by these presents, that we, John S. Roberts, of Springfield, in the county of Sangamon, State of Illinois, and James Adams and James F. Reed, of the county and State aforesaid, are held and firmly bound, unto the United States of America, in the just and full sum of five thousand dollars; for the payment whereof well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

In witness whereof we have hereunto subscribed our names, and affixed our seals, this ninth day of July, in the year of our Lord one thousand eight hundred and forty.

The condition of this obligation is such, that whereas the above bounden John S. Roberts is postmaster at Springfield aforesaid: Now, if the said John S. Roberts shall well and truly execute the duties of the said office, according to law and the instructions of the Postmaster General, and faithfully, once in three months, or oftener, if thereto required, render accounts of his receipts and expenditures, as postmaster, to the Post Office Department, in the manner and form prescribed by the Postmaster General in his several instructions to postmasters, and

shall pay the balance of all moneys that shall come to his hands for the postage of whatever is by law chargeable with postage, in the manner prescribed by the Postmaster General of the United States for the time being; and shall also faithfully do and perform, as agent for the Post Office Department, all such acts and things as may be required of him by the Postmaster General; and, moreover, shall faithfully account with the United States in the manner directed by the said Postmaster General, for all moneys, bills, bonds, notes, receipts, and other vouchers, which he, as agent as aforesaid, shall receive for the use and benefit of the said Post Office Department, then the above obligation shall be void.

JOHN S. ROBERTS, [L. S.]
J. ADAMS, [L. S.]
JAMES F. REED. [L. S.]

Witness—B. C. WEBSTER.

Declaration.

In the circuit court of the United States of America, for the district of Illinois, of the December term of said court, in the year of our Lord one thousand eight hundred and forty-two.

STATE AND DISTRICT OF ILLINOIS, *ss:*

The United States of America, plaintiffs in this suit, by Justin Butterfield, their attorney, complain of John S. Roberts, James Adams, and James F. Reed, defendants in this suit, who were summoned, &c., of a plea, that they render unto the said plaintiffs the sum of five thousand dollars, which they owe to and unjustly detain from them.

For that whereas the said defendants, on the ninth day of July, in the year of our Lord one thousand eight hundred and forty, at the town of Springfield, in the district of Illinois aforesaid, and within the jurisdiction of this court, by their certain writing obligatory, sealed with their seals, and now to the court here shown, the date whereof is the same day and year aforesaid, by the names, contractions, abbreviations, and descriptions of John S. Roberts, J. Adams, and James F. Reed, acknowledged themselves to be held and firmly bound, unto the said plaintiffs, in the full and just sum of five thousand dollars above demanded, and to be paid to the said plaintiffs when they, the said defendants, should be thereunto afterwards requested.

And the said plaintiffs, according to the statute in such case made and provided, say, that the said writing obligatory was and is subject to a certain condition thereunder written, whereby after reciting to the effect following, that is to say, that whereas the above bounden John S. Roberts is postmaster at Springfield aforesaid, it is provided, that if said John S. Roberts should well and truly execute the duties of the said office according to law, and the instructions of the Postmaster General, and faithfully, once in three months, or oftener if thereto required, render accounts of his receipts and exenditures as postmaster to the Post Office Department, in the manner and form prescribed by the Post-

master General in his several instructions to postmasters, and should pay the balance of all moneys that shall come to his hands for the postage of whatever is by law chargeable with postage, in the manner prescribed by the Postmaster General of the United States for the time being, and should also faithfully do and perform, as agent for the Post Office Department, all such acts and things as might be required of him by the Postmaster General, and moreover should faithfully account with the United States, in the manner directed by the said Postmaster General, for all moneys, bills, bonds, notes, receipts, and other vouchers, which he, as agent as aforesaid, should receive for the use and benefit of the said Post Office Department, then the obligation should be void. Nevertheless, the plaintiffs in fact say, that, after the making the said writing obligatory, to wit, on the thirtieth day of September, in the year one thousand eight hundred and forty, to wit, at Springfield, in the district aforesaid, the said John S. Roberts did not well and truly execute the duties of his said office, in this, to wit, that, after the making of the said writing obligatory, to wit, on the day and year last aforesaid, there came to the hands of the said John S. Roberts, as postmaster as aforesaid, a large sum of money, to wit, the sum of one thousand dollars, for the postage of things chargeable by law with postage. Which said sum of money it was the duty of the said John S. Roberts, as postmaster as aforesaid, to pay over to the United States; yet the said John S. Roberts, not regarding his duty in that behalf, although often requested so to do, have hitherto wholly neglected and refused, and still doth neglect and refuse, to pay the said sum of money, or any part thereof, to the United States, contrary to the form and effect of the said writing obligatory, and of the said condition thereof.

And for assigning a further breach of the said condition of the said writing obligatory, the said plaintiffs say, that, after the making of the said writing obligatory, the said John S. Roberts did neglect to render, as postmaster as aforesaid, his accounts for the period from the first day of October, in the year one thousand eight hundred and forty, to the seventh day of February, in the year one thousand eight hundred and forty-one inclusive, within one month after the time prescribed by law for the rendition of his accounts as postmaster as aforesaid, for the period aforesaid, by reason whereof the said John S. Roberts, in pursuance of the statute in such case made and provided, hath forfeited double the value of the postages which arose at the same post office at Springfield aforesaid, in an equal portion of time previous or subsequent thereto. And the said plaintiffs aver, that double the value of the postages which arose at the said office in an equal portion of time previous thereto, amounts to a large sum of money, to wit, the sum of three thousand eight hundred and fifty-two dollars and seventy-two cents, which the said John S. Roberts, according to the form of the statute in such case made and provided, forfeited and became liable to pay to the said plaintiffs, to wit, at Springfield, in the district aforesaid; yet the said John S. Roberts, not regarding his duty in that behalf, although often requested, ath neglected and refused to pay the same, or any part thereof, to the

said plaintiffs, but the same still remains due and in arrear to the said plaintiffs.

And for assigning a further breach of the said condition of the said writing obligatory the said plaintiffs say, that, after the making of the said writing obligatory, the said John S. Roberts did not well and faithfully execute the duties of his said office according to law, in this, to wit, the said John S. Roberts did neglect to render an account current of his receipts and expenditures as postmaster as aforesaid to the Post Office Department, as he was requested to do, for the period from the first day of October, in the year one thousand eight hundred and forty, to the seventh day of February, in the year one thousand eight hundred and forty-one inclusive, and within one month after the time prescribed by law for the rendition of his accounts as aforesaid for the period aforesaid, nor has he at any time since rendered his said accounts; by reason whereof the said John S. Roberts, by force of the statute in such case made and provided, hath forfeited double the value of the postages which arose at the said post office in any equal portion of time previous or subsequent thereto. And the said plaintiffs aver, that the value of the postages which arose at said post office at Springfield aforesaid, in an equal portion of time previous thereto, amounts to a large sum of money, to wit, the sum of one thousand four hundred and twenty-six dollars and thirty-six cents, which, being doubled, amounts to the sum of two thousand eight hundred and fifty-two dollars and seventy-two cents, which the said John S. Roberts, according to the form of the statute in such case made and provided, forfeited and became liable to pay to the said plaintiff, to wit, at the place in the district aforesaid; yet the said John S. Roberts, not regarding his duty in that behalf, although often requested, hath neglected and refused, and still doth neglect and refuse, to pay the same or any part thereof to the said plaintiffs; by reason of which said breaches the said writing obligatory became forfeited, and thereby an action hath accrued to the said plaintiffs to demand and have of and from the said defendants the said sum of five thousand dollars above demanded; yet the said defendants, although often requested so to do, have not as yet paid the said sum of five thousand dollars above demanded, or any part thereof, to the said plaintiffs, but have hitherto wholly neglected and refused, and still neglect and refuse, to pay the same, or any part thereof to the said plaintiffs, to the damage of the said plaintiffs of five hundred dollars, and thereof they bring suit.

J. BUTTERFIELD, *U. S. Att'y.*

Rule to plead.

This day, to wit, the fifth day of December, in the year last aforesaid, on motion of J. Butterfield, attorney for plaintiffs, ordered that the defendants plead in this cause by the opening of the court on to-morrow morning.

Default and award of venire.

This day, to wit, the ninth day of December, in the year last afore-

said, come the said plaintiffs, by J. Butterfield, their attorney, and the said defendants having been duly served with process and rule to plead, and, being thrice solemnly called, come not, but make default. It is therefore considered that the default of the said defendants be entered, and that a writ of inquiry be issued to assess the damages which the said plaintiffs have sustained on occasion of the premises.

Jury.

This day, to wit, the fourteenth day of December, in the year last aforesaid, come again the said plaintiffs, by Butterfield, their attorney, and the default of the said defendants having been heretofore entered and a writ of inquiry awarded, thereupon came the following jurors of a jury, to wit: Edward Keating, Samuel M. Kettinger, David Bridges, William Gooding, James C. Morrison, Edward Davis, George Davis, Henry Brown, Nelson R. Jones, Amos F. Patrick, Horatio Bigelow, and Benjamin F. James, who being duly elected, tried, and sworn well and truly to assess the damages sustained by the said plaintiffs in the premises, upon their oaths do say:

Verdict.

"We, the jury, assess the damages of the said plaintiffs to the sum of three thousand and forty-eight dollars and thirty-three cents."

Judgment.

It is therefore considered and adjudged by the court, that the said plaintiffs recover of and from the said defendants the sum of five thousand dollars, their debt in the declaration mentioned, to be released and discharged upon the payment of three thousand and forty-eight dollars and thirty-three cents, their damages aforesaid, in form aforesaid assessed, as well as their costs and charges by them about their suit in this behalf expended; and that they have execution therefor, &c.

Motion to set aside judgment.

This day, to wit, the fifteenth day of December, in the year last aforesaid, come the said defendants, by Strong, their attorney, and enter their motion to set aside the judgment rendered in this cause.

Order continuing said motion.

This day, to wit, the twenty-first day of December, in the year last aforesaid, ordered that the motion heretofore entered to set aside the judgment rendered in this cause, be continued until the next term of this court.

Order setting judgment aside.

This day, to wit, the eighth day of June, in the year of our Lord one thousand eight hundred and forty-three, come the said parties by their attorneys, and the motion entered at the last term of this court to set aside the default and judgment rendered in this cause at the last

term having been argued, and the court having heard the affidavits in support of said motion, and being now sufficiently advised of and concerning the same, it is considered and ordered by the court, that the said default and judgment be set aside and vacated at the costs of the said defendants, and that the said plaintiffs have execution of their costs herein by them expended, &c.

This day, to wit, the ninth day of June in the year last aforesaid, pleas were filed in the words and figures following, viz:

Pleas.

In the circuit court of the United States, for the district of Illinois, of the June term, 1843.

JOHN S. ROBERTS, James Adams, and James F. Reed, ads. The UNITED STATES of America

1. And the said defendants, by Bledsoe & Trumbull, their attorneys, come and defend the wrong and injury, when, &c., and say that the said plaintiffs to have or maintain their action aforesaid ought not, because they say that, before the commencement of this suit, to wit, on the 20th day of June, A. D. 1842, they fully paid and satisfied the said debt in the declaration mentioned, with all interest due thereon, and all damages occasioned by the said supposed breaches of the condition of the said writing obligatory mentioned in said declaration, and this they are ready to verify; wherefore they pray judgment, &c.

2. And, for a further plea in this behalf, the said defendants, by leave, &c., as to the breaches firstly and secondly above assigned, say actio non, because they say that the said John S. Roberts, on the 20th day of June, A. D. 1842, and before the commencement of this suit, paid over to the plaintiffs all the money which came to his hands as postmaster as aforesaid, and also the further sum of two thousand eight hundred and fifty-two dollars and ninety-two cents, alleged to be due from the said Roberts in the said breach secondly above assigned, with all interest due upon the sums aforesaid; and this the defendants are ready to verify; wherefore, they pray judgment, &c.

3. And, for a further plea as to the said breach thirdly above assigned, the defendants say actio non, because they say that the said John S. Roberts did not neglect to make an account current of his receipts and expenditures as postmaster, from the first day of October, 1840, to the 7th of February, 1841, inclusive, in manner and form as the said plaintiffs have in their said third breach alleged; and of this the defendants put themselves upon the country, &c. And the said plaintiffs do the like.

4. And, for a further plea in this behalf, the defendants beg leave, &c., say actio non, because they say that the said plaintiffs, before and at the time of the commencement of this suit, were and still are indebted to the defendants in a large sum of money, to wit, in the sum of six thousand dollars, for so much money before that time had and

received by the said plaintiffs to and for the use of the said defendants, and in the further sum of six thousand dollars, for so much money by the said defendants paid, laid out, and expended for the said plaintiffs, and at their special instance and request; which said several claims of set-off have been presented to the Auditor of the Post Office Department, and by him disallowed, and which sums of money, so due and owing from the said plaintiffs to the defendants, exceed the damages sustained by the said plaintiffs by reason of the supposed breaches of said condition of said writing obligatory, and out of which sums of money, so due and owing from the said plaintiffs to the defendants, the defendants are ready and willing, and hereby offer to set off and allow to the plaintiffs the full amount of damages by them sustained by reason of said supposed breaches; and this they are ready to verify. Wherefore they pray judgment, &c.

BLEDSOE & TRUMBULL,
Att'ys for Def'ts.

Pleas.—Copy of items of set-off.

June 20, 1842.

UUNITED STATES, To DEFENDANTS, *Dr.*

To money received by U. States for use of defendants -	$6,000 00
Cash paid by defendants to Robert Allen, a stage contractor, at various times - - - - -	6,000 00

And for a further plea, as to the said breach firstly above assigned, the defendants say actio non, because they say that there did not come to the hands of the said John S. Roberts, as postmaster as aforesaid, on the thirtieth day of September, 1840, nor at any other time after the making of said writing obligatory, said sum of one thousand dollars, or any other sum, as is in said breach alleged; and of this the defendants put themselves upon the country, &c.; and the plaintiffs do the like.

BLEDSOE & TRUMBULL,
For defendants.

Death of Adams suggested.

This day, to wit, the fifteenth day of December, in the year A. D. 1843, come the said plaintiffs by J. Butterfield, their attorney, and suggest the death of James Adams, one of the said defendants, and thereupon this cause is continued to the next term of this court.

Replication.

This day, to wit, the fifth day of December, in the year of our Lord one thousand eight hundred and forty-five, came the plaintiffs by their attorney, and filed their replication as follows, viz:

THE UNITED STATES
vs.
JOHN S. ROBERTS and James F. Reed, survivors of James Adams, deceased.

And the plaintiffs, as to the said plea by the said defendants firstly above pleaded, say, that by reason of any thing by the said defendants

in that plea alleged, they ought not to be barred or precluded from having or maintaining their aforesaid action thereof against the said defendants; because they say that the said defendants did not fully pay or satisfy the said debt in the said declaration mentioned, with all interest due thereon, and all damages occasioned by the said breaches of the condition of the said writing obligatory, mentioned in the said declaration, in manner and form as the said defendants have in that plea alleged; and of this the said plaintiffs put themselves upon the country; and the said defendants do the like.

And the said plaintiffs, as to the said plea of the said defendants secondly above pleaded, say, precludi non, because they say that the said John S. Roberts did not pay over to the said plaintiffs all the money which came to his hands as postmaster as aforesaid, nor the further sum of two thousand eight hundred and fifty-two dollars and ninety-two cents, alleged to be due from the said Roberts in the said breach secondly above assigned, with the interest due upon the sums aforesaid, or any part thereof, in manner and form as the said defendants have in that plea alleged; and of this they, the said plaintiffs, put themselves upon the country; and the said defendants do the like, &c.

And the said plaintiffs, as to the said plea of the said defendants by them fourthly above pleaded, say, precludi non, because they say that the said plaintiffs, before and at the time of the commencement of this suit, were not, and are not, indebted to the defendants in a large sum of money, to wit, in the sum of six thousand dollars, or any part thereof, for so much money before that time had and received by the said plaintiffs to and for the use of the said defendants; nor in the further sum of six thousand dollars, or any part thereof, for money by the said defendants paid, laid out, and expended for the said plaintiffs, in manner and form as the said defendants have in that plea alleged; and of this they, the said plaintiffs, put themselves upon the country, and the the said defendants do the like.

D. L. GREGG, *Atty. for plaintiff.*
J. BUTTERFIELD, *Counsel.*

This day, to wit, the twentieth day of December, in the year last aforesaid, came the parties by their attorneys, and issue having been joined, thereupon came a jury, to wit:

Jury.—Verdict.

William B. Whiteside, James Mitchell, Daniel P. Willbanks, Wallace Simmons, M. Y. Johnson, William H. Bissell, William H. Hernden, William Lavely, R. W. Diller, W. H. Underwood, Lewis M. Boothe, and Allan Tomlin, who being duly elected, tried, and sworn, well and truly to try the issue joined, upon their oaths do say: "We the jury find for the plaintiffs, and assess their damages to the sum of fourteen hundred and eighty-five dollars and twenty-nine cents; and the jury presented the following statement, made by them by direction of court, showing the calculations and allowances by which their said ver-

dict was made up, viz: The jury allow the amount of $921.40, and for the quarter, from October to December, estimated at $1,009.43 doubled, making - - - - - - - $2,018 86
921 40

2,940 26
Deduct for receipt - - - - - - 1,731 39

1,208 89
Interest on - - $921 40 - - 276 42
6

1,485 29
5,528 40
5

276 42

Judgment.

It is therefore ordered and adjudged, that the said plaintiffs do recover of and from the said defendants their debt in their declaration mentioned to the sum of five thousand dollars, to be released and discharged upon the payment of fourteen hundred and eighty-five dollars and twenty-nine cents, the damages aforesaid, by the jury aforesaid assessed, as well as their costs and charges herein expended, and that they have execution therefor, &c.

Bill of exceptions.

United States circuit court for the district of Illinois, December term, A. D. 1845.

THE UNITED STATES OF AMERICA
vs.
JOHN S. ROBERTS and JAMES F. REED, survivors of James Adams, deceased.

Be it remembered, that this cause came on to be tried on the 19th day of December, A. D. 1845, at the December term of the circuit court of the United States for the district of Illinois, the Hon. Nathaniel Pope presiding; and the said plaintiffs, to prove and maintain the issues on their part, first introduced in evidence the bond on which this suit was brought, a copy of which is attached to the declaration herein, and then introduced in evidence the following certified statement of the account of John S. Roberts, as postmaster at Springfield, Illinois, to wit:

J. S. Roberts, late P. M., Springfield, Ills., in account with the United States.

	Dr.	
To balances due on his quarterly returns, as P. M., viz:		
From February 1 to March 31, 1839		$554 49
" April 1 to June 30, 1839		877 56
" July 1 to September 30, 1839		1269 07
" October 1 to December 31, 1839		1094 35
" January 1 to March 31, 1840		1241 26
" April 1 to June 30, 1840		960 50
" July 1 to July 8, 1840		88 03
		$6085 26

	Cr.	
1839, April 4.	By this sum paid R. Allen	$523 07
" July 13.	" " do	875 65
" Oct. 4.	" " do	1031 12
1840, Jan. 6.	" " do	1054 09
" May 22.	By draft No. 421	31 00
" April 4.	By this sum paid R. Allen	1240 88
" July 7.	" " do	956 87
	Balance	372 58
		$6085 26

Account.	
To balance	$372 58
To account from July 9 to Sept. 30, 1840	921 40
To balance on postages estimated to have arisen at his office, from Oct. 1, 1840, to Feb. 7, 1841, and doubled agreeably to the 32d section of the act, approved 3d March, 1825, relating to the Post Office Department	2852 72
	$4146 70
Interest from 7th Feb., 1841.	

I certify that the foregoing is a true statement of the account of J. S. Roberts, late postmaster at Springfield, Ill., as audited and adjusted at this office; that the said J. S. Roberts did not render, as postmaster, an

account current, as he was required to do, for the period from Oct. 1, 1840, to Feb. 7, 1841, inclusive, within one month after the expiration of said period, or at any subsequent time, and that I have estimated the postages received in said period at $1426 36 cts., the basis of the estimate being the amount of postages received for the quarter next preceding, say from July 1 to Sept. 30, 1840; and the said sum of $1426 36 cts, bearing the proportion to $1009 43 cts., (the postages of said quarter,) which 130 days do to 92 days, (the number of days in said quarter;) and that, having doubled the amount of said postages so estimated, agreeably to the 32d section of the act of 3d March, 1825, I have charged the same at $2852 72 cts.

In testimony whereof I have hereunto subscribed my name, and caused to be affixed my seal of office, at Washington, this [SEAL.] seventeenth day of June, in the year one thousand eight hundred and forty-two.

ELISHA WHITTLESEY,
Auditor of the Treasury for the P. O. Dep't.

The said plaintiffs, further to prove the issues on their part, then read in evidence the deposition of Robert B. Rust, as follows, to wit:

Deposition of Robert B. Rust.

CITY OF WASHINGTON, *District of Columbia, sct:*

I, William W. Seaton, Mayor of the city of Washington, in the District of Columbia, certify, that on the 21st day of November, 1842, before me personally appeared Robert B. Rust, of lawful age, a witness produced on the part of the plaintiff, in a suit depending in the circuit court of the United States for the district of Illinois, in which the United States of America is plaintiff, and John S. Roberts, James Adams, and James F. Reed are defendants; and the said Robert B. Rust being by me first carefully examined, and cautioned, and sworn to testify the whole truth, deposed as follows, to wit:

I, Robert B. Rust, depose and say, that I am at this time employed, and have been so employed, as a clerk in the Post Office Department, since about the 20th day of March, in the year one thousand eight hundred [and] thirty-nine, and that it is now, and has been, during all said period, my duty to enter in a book, kept for that purpose, the quarterly returns of postmasters, rendered to the Department from time to time, including the quarterly balances acknowledged to be due to the United States by the postmasters, for each quarter, on such returns respectively. That I have this day examined said book, and find that no entry is therein made of any return received from the defendant, John S. Roberts, as postmaster at Springfield, in the State of Illinois, for the quarter commencing the 1st of October, and ending the 31st day of December, 1840; nor for that part of the succeeding quarter, to wit, from the 1st day of January to 7th day of February, 1841, during which said Roberts remained in office; and that I am well satisfied, and perfectly convinced, that no return was received at the Post Office Department from said Roberts for either of the said described periods,

from the 1st of October to 31st of December, 1840, and from the 1st day of January to 7th day of February, 1841, either in the period prescribed by law for the rendition of such returns, or at any time since.

ROBERT B. RUST.

And I, the said Wm. W. Seaton, further certify, that the said testimony of the said Robert B. Rust was by him subscribed in my presence, after the same was by him in my presence reduced to writing; that I am not counsel or attorney to either of the said parties, nor interested in the event of said cause; and that no notice was given to the adverse party, or their attorney in said cause, because neither of them resides within one hundred miles of the place of caption, as I was informed. And I further certify, that the said deposition is taken, to be used in the suit aforesaid, and that the cause of taking the same is, that the said Robert B. Rust was at a greater distance than one hundred miles from the place of trial of the said suit.

In testimony whereof I have hereunto subscribed my name, and [SEAL.] caused the seal of the Corporation of Washington to be affixed, the day and year above written.

W. W. SEATON, *Mayor*.

Attest: C. H. WILTBERGER, *Register*.

Admission.

It was admitted on the part of the defendants, that the said John S. Roberts went out of office, as postmaster at Springfield aforesaid, on the 7th day of February, A. D. 1841.

Defence. Sig. Kendall proved.

The plaintiffs having rested, the defendants, to sustain the issues on their part, offered in evidence a letter of the date of April 13, 1838, signed Amos Kendall; it being proved that Amos Kendall was at the date thereof Postmaster General, and that the signature was his, as follows, to wit:

Letter.

POST OFFICE DEPARTMENT, *April* 13, 1838.

To

Postmaster at Springfield, Ills:

SIR: You are required, within two days after the close of each quarter, to forward your quarterly accounts to this Department; or, if there be no mail from your office within that time, then by the next mail. The quarters end on the 31st March, 30th June, 30th September, and 31st December.

By having your accounts of mails sent, and mails received, copied beforehand, up to the last day you can finish the copies, make the calculations, and have them ready to be forwarded in a few hours.

As you have no right to use or credit out the money which belongs

to the United States, it is required that you have the balance due at the end of each quarter ready to be paid on demand.

The contractor named at the foot of this letter, who carries the mail on the route there stated, on which your office is situated, is authorized to demand and receive of you, either in person or by his agent, at the end of each quarter, so long as he shall actually carry the mail on said route, or until you shall be otherwise directed, the whole amount due from you to the United States, including the quarter then just terminated, as shown in your account current.

Blank forms of orders and receipts (specimens of which, filled up, are hereto annexed,) will be sent, for every collection, to the contractor. These forms, and no others, must be used in your payments to contractors. If the contractor call on you in person for the money, the orders will not be necessary, and you will take from him two receipts in the form prescribed, one of which you will keep and send the other by the next mail to the Auditor for the Post Office Department. If any other person call for the money as agent, he must produce to you two orders in the prescribed form, signed by the contractor, with the blank receipts, annexed; and after you have paid him, he will fill up and sign both receipts, and leave both orders and both receipts with you; one of each you will forthwith send to the Auditor, Post Office Department, and retain the other.

These claims and orders cannot be sold, negotiated, or transferred, and no credit will be allowed you for any payment to any other person than the contractor, or the persons named in his orders; nor in the latter case will credit be allowed, unless the order accompany the receipt; nor unless the receipt be dated on the day when the money is paid.

When demand is made of you as herein prescribed, it is expected that you will make instant payment, and the contractor is instructed to report forthwith to the Department every refusal or failure on your part. Very respectfully, your obedient servant,

AMOS KENDALL.

Pay to Robert Allen,
Contractor on route No. 2701.

☞You will take care to write or stamp the name of your office on the outside of the packet containing your quarterly returns for each quarter.

Auditor's office, P. O. Dep.,
P. M. Springfield, Sangamon co., Ills.

Letter.

To the postmaster at *(Lebanon)*, State of *(Maine)*:

Pay to *(John Smith)* the whole amount due from you to the United States, including the amount accruing during the quarter ending 30th September, 1836, as shown by your account current.

(JOSEPH GRANT), Contractor.

September 28, 1836.

Mail route No. 73.

Received this (*3d day of October*, 1836), of (*Daniel Wood*), postmaster at (*Lebanon*), State of (*Maine*), (*one hundred and twenty-seven*) dollars (*seventy-nine*) cents, being the amount due from him to the United States for the quarter ending 30th September, 1836, as shown by his account current, including all previous dues.

127 *dolls.* 79 *cents.* (*JOHN SMITH.*)

Note. The words and figures printed in *italics*, and included in parentheses, are omitted in the forms sent to the contractor, which will be filled up with the proper names, sums, and dates, when they are used.

In case the contractor call himself, he will sign the receipts, and the orders, being unnecessary, may be torn off.

Letter objected to; objec. overruled; excepted.

To the introduction of which the said plaintiffs, by their counsel, objected; but the objection was overruled by the court, and the said paper permitted to go to the jury; to which decision of the court the said plaintiffs, by their counsel, excepted.

The said defendants then offered in evidence the following receipt, to wit:

Receipt.

"Rec'd of John S. Roberts, postmaster at Springfield, Ills., (per Gen'l James Adams, one of his sureties,) seventeen hundred and thirty-one dollars 39-100 of the amount due up to the first of January, 1841, to the P. O. Dep't. ROBERT ALLEN."

And proved the signature to be that of Robert Allen.

Objected to.

To the introduction of which the said plaintiffs, by their counsel, objected, on the ground that it did not appear that the claim of the defendants for the amount mentioned in said receipt had been presented to the Auditor of the Treasury for the Post Office Department for settlement, and disallowed by him, and because the payment receipted for was in violation of law and contrary to the instructions of the Postmaster General.

The defendants were then allowed to introduce in evidence the following certified statement of Peter G. Washington, esq., Auditor of the Post Office Department, to wit:

Certified statement of P. G. Washington.

Received of John S. Roberts, postmaster at Springfield, Ill., per Gen. James Adams, (one of his securities,) seventeen hundred and thirty-one dollars 39-100 of the amount due up to the first of January, 1841, to the Post Office Department.

Duplicate. ROBERT ALLEN

I hereby certify, that the receipt of which the foregoing is a copy, was received at this office in a letter signed by "J. Adams, for himself and James F. Reed," and dated the 14th January, 1843; and that the said receipt was returned to said Adams in a letter from Elisha Whittlesey, late auditor, dated the 11th May, 1843.

I further certify, that credit for said receipt was, and is, refused, for the reason that, by the 9th section of the act of 2d July, 1836, it is made the duty of the Postmaster General to prescribe the manner in which postmasters shall pay over the balances; that the Postmaster General, in performance of this duty, gave to Mr. Roberts certain printed instructions, constituting the only authority he had for paying over the money he had in his hands; and that the payment so alleged to have been made by Mr. Allen was in direct violation of said instructions, and an evasion of the object therein intended to be secured—the said object being, by restricting such payments to the blanks sent from the Department for each quarter for that purpose, and by requiring the immediate transmission of one of said receipts when executed, to charge the contractor on account of the same quarter with the amount, and to pay him thereupon only the balance of pay remaining; that no such blanks were furnished for the payment in question; and that, by using a manuscript receipt, not sanctioned by the instructions or practice of the Department, it remained in entire ignorance of any such payment, until the receipt was received from Mr. Adams as before stated, and until the contracts of Mr. Allen had expired, and the full amount due him had been otherwise paid; and, finally, as the postmaster had no authority to make such payment, his surety, Mr. Adams, had none to make it for him.

In testimony whereof I have hereunto subscribed my name, and caused to be affixed my seal of office, at Washington, this [SEAL.] sixth day of November, in the year eighteen hundred and forty-five.

P. G. WASHINGTON,
Auditor of the Treasury,
For the Post Office Dept.

Objection overruled.

And thereupon the court overruled the objections of the plaintiffs, made as aforesaid, to the introduction of the said receipt in evidence, and permitted the same to be read to the jury, to which decision the said plaintiffs by their counsel excepted.

Evidence of Robert Allen.

The defendants then called Robert Allen, who executed the said receipt, as a witness, and offered to prove by him the circumstances under which the said receipt was given.

Objection as to competency.

The plaintiffs by their counsel objected, first, to the competency of the said Allen as a witness in this suit, on the ground that he was interested

in the result of this suit; and, secondly, because the said receipt was not given in the form prescribed by the Postmaster General in his instructions; and, thirdly, that it was not competent for the said defendants to explain the said receipt by parol testimony; the court overruled the said objections, and allowed the said witness to testify; to which decision of the court the said plaintiffs by their counsel excepted.

Allen's testimony.

And the said Allen testified that he was a contractor for carrying the mail on route 2701, at and before the date of the said receipt; that the money mentioned in the said receipt, before the execution thereof, had been paid to him by James Adams, one of the sureties of the said John S. Roberts, in several small payments, for which he had given him receipts; that afterwards, some time in the month of January, 1841, he took up the said receipts, and gave him the said receipt for $1731 39; that he never reported the receipt of the said money to the Post Office Department, but thinks that some time afterwards he advised said department thereof by letter, but could not state at what time; that he ceased to be contractor for carrying the mail on the 30th of June, 1842; that in March, 1842, he received from the Postmaster General a draft on the said J. S. Roberts for $1600; that he presented the same to the said Roberts for payment, and could get nothing upon it, and returned the said draft to the Postmaster General unpaid; that he did not recollect whether it was before or after the receipt of said draft that he advised the Post Office Department of the reception of the money mentioned in said receipt for $1731 39. Said Allen further stated, that the Government was indebted to him as contractor five thousand dollars and upwards, and that he had repeatedly applied for his account unsuccessfully.

Jas. W. Keys' testimony.

The said defendants then called James W. Keys, who testified that he succeeded the said Roberts as postmaster at Springfield; that he took charge of the post office at said place on the 7th day of Feb., 1841. He was then asked by the defendants, if after he came into office he made payments to Allen as contractor, and took receipts different from those prescribed by the Postmaster General in the printed form; which question was objected to by the said plaintiffs, first, for the reason that no usages of the Post Office Department can be proved variant from the printed instructions of the Postmaster General; and, second, because no practices pursued by the said Keys, subsequent to the time Roberts went out of office, could affect the rights of the plaintiffs in this suit; which objections were overruled by the court, and the witness allowed to answer the question; to which decision the plaintiffs excepted.

Keys' testimony.

The said witness then testified, that while in office he made several payments to Allen as contractor, and took his receipts, but did not know if the said receipts varied from those prescribed by the printed instructions of the Postmaster General; that he always took duplicate receipts,

and by the next mail forwarded one of them to the Auditor for the Post Office Department, and that they were passed to his credit; that after he went out of office, on the 27th September, 1841, he paid to the said Allen as contractor six hundred dollars, and took from him a receipt (which he produced) in the words and figures following, to wit:

Receipt.

"Rec'd Sept. 27th, 1841, of James W. Keys, late P. Master at Springfield, Ills., six hundred and fifty dollars in part of the amt. due P. O. Dept. for the fractional quarter ending the 7th Sept., 1841.

ROBERT ALLEN.

That he took a duplicate of the said receipt at the same time, and immediately forwarded it to the Auditor of the Post Office Department, and that his account there was credited with the amount of the same.

Allen Tomlin's testimony.

The defendants then introduced Allen Tomlin as a witness, who testified that he was postmaster in Galena, in the State of Illinois, from 1839, to 4th March, 1841; the witness was then asked, if he had been in the habit of making payments as postmaster to mail contractors, and taking manuscript receipts for such payments, which were passed to his credit at the P. O. Department; which question was objected to by the plaintiffs' counsel, on the ground that the rights of the said plaintiffs in this case could not be prejudiced by the acts or dealings of the said Tomlin; which objection was overruled by the court, and witness allowed to answer the question; to which decision the plaintiffs by their counsel excepted.

The said witness then testified, that he had, in several instances, when postmaster at Galena as aforesaid, made payments to mail contractors and took their receipts in manuscript; that he could not state whether such receipts varied from the printed forms or not, but that he always took duplicate receipts, and immediately forwarded one to the Auditor for the Post Office Department, and such receipts were there passed to his credit.

George Welch's testimony.

The said defendants then called George Welch as a witness, who testified that he was a clerk in the post office at Springfield during the time the said Roberts held said office, and some time thereafter under his successor; that he thought the quarterly return of the said Roberts, as postmaster as aforesaid, for the quarter ending December 31, 1840, was made up and sent to the Post Office Department. On cross examination, the said witness stated that he had no distinct recollection of the said account for that quarter being made up or sent; that he could recollect no fact in relation to it; that when he said, on his direct examination, that he thought the accounts had been made up for that quarter and sent, he merely thought so, because it had been the usual practice to make up and send the accounts for each quarter.

The defendants here rested.

Deposition of Scott and Washington.

The plaintiffs then introduced and read in evidence the depositions of Thomas A. Scott and Peter G. Washington, with the exhibits annexed thereto, and the account of the said Robert Allen, as a mail contractor, annexed thereto; copies of which said depositions, exhibits, and account of the said Robert Allen, are hereunto annexed, and made a part of this bill of exceptions, in the same manner as if recited and copied in the body thereof.

THE UNITED STATES OF AMERICA
versus
J. S. ROBERTS and J. S. REED, survivors of James Adams, deceased.

In the circuit court of the United States for the district of Illinois, holden at Springfield, in said district.

I, William W. Seaton, mayor of the city of Washington, in the District of Columbia, certify, that on the 24th day of November, 1845, before me, personally appeared Thomas A. Scott, of lawful age, a witness produced on the part of the complainant, in a suit depending in the circuit court of the United States for the district of Illinois, holden at Springfield, in said district, in which the United States of America is plaintiff, and J. S. Roberts and J. F. Reed, survivors of James Adams, deceased, are defendants; and the said Thomas A. Scott being by me first carefully examined, cautioned, and sworn to testify the whole truth, deposed as follows, to wit:

That he is at this time, and has heretofore been, a clerk in the office of the Auditor of the Treasury for the Post Office Department since the establishment of said office in the month of July, 1836; that during all the said period he has filled the situation of pay clerk in said office for a section of country comprehending the States of Illinois, Indiana, and Kentucky, and, as such, that it has been his duty to furnish postmasters in said section with printed instructions to pay over to contractors their quarterly balances, and contractors with corresponding instructions to collect said balances, as well as the blank orders and receipts for each successive quarter, to be alone used in said collections, and blank acknowledgments for making their returns thereof; that it has been his duty as such pay clerk to receive, file, and preserve the acknowledgments made by contractors of such collections, and their receipts given to postmasters, and by them forwarded to the office; to keep accounts with said contractors for their contract pay, in connection with the post offices situated upon the line of their service, and at the end of each quarter to state the said contractors' accounts for paying to them, by draft or warrant, issued at the department, the balances to them due, over and above the accounts so collected. And deponent annexes hereto, and makes part of this deposition, form marked No. 1, as indicating the instructions sent to postmasters to pay over their quarterly balances; form marked No. 2, as indicating the instructions to contractors to collect; form marked No. 3, as a specimen of the blank orders

and receipts to be alone used in said collections; and form marked No. 4, as showing the form of acknowledgment to be made by contractors of their collections at the end of each quarter; all of which said forms, so marked and annexed, bear the signature of the deponent. And deponent further saith, that Robert Allen, of said State of Illinois, was contractor for carrying the mail, among other routes, on route No. 2701, from Springfield, in said State, to Terre Haute, in the State of Indiana, from the 1st of January, 1838, to the 30th June, 1842, at the yearly compensation of $9,750, which was reduced for corresponding reduction of service on the 16th of August, 1838, to $4,750 or $1,187 50, for each quarter; and as such, was furnished with instructions to collect from the P. M. at Springfield, Illinois, in form before mentioned, and with blank orders from quarter to quarter, to be alone used in said collections, and blank acknowledgments for reporting the same as before mentioned.

That said Allen acknowledged collections from J. S. Roberts, who was P. M. at said Springfield from the 1st February, 1839, for the 1st quarter of 1839, of $523.07, for the 2d quarter of 1839, of $875.65, and from the 3d quarter of 1839, of $1,031.12, and that the said Roberts having forwarded the proper printed receipts filled up for the above sums, and signed by said Allen, for the 1st quarter of 1839, dated 4th April, 1839, for the 2d quarter, '39, dated 13th July, '39, and for the 3d quarter, 1839, dated 4th October, 1839, all said three sums were duly charged to said Allen as contractor for the respective quarters mentioned, and credited to said Roberts as P. M. in the account so kept by deponent as before mentioned. And deponent further saith, that he does not suppose it is desired or necessary for him to go more into detail respecting the collections so ascertained, and the settlement made for the said three quarters of 1839, inasmuch as the affidavit of said Allen, filed on the application of said Roberts, or his sureties, for a new trial of the case of the United States against them in the circuit court of the United States for said district of Illinois, holden at said Springfield, a copy of which has been shown to deponent, and is hereto annexed, alleging that the said Allen drew for and received as contractor from said Roberts, at different times, the sum of $1,731.39, and informed the department thereof, and credited the same on his contract, refers only to the year 1840; but that deponent supposes that such detail and particularity will only be necessary in relation to the collections and acknowledgments for the year 1840, (given by said Allen as the period of said receipts, amounting to $1,731.39,) to prove that the affidavit of said Allen is altogether groundless and erroneous, at least in so far as it may be intended to imply that he duly and regularly collected or reported, according to the instructions before mentioned, any sum or sums in 1840, or at any other time from said Roberts, for which said Roberts was not duly credited in the account kept by deponent as before mentioned.

And deponent, in order to show the real facts of the case as it respects the collections made in the year 1840, and that all said collec-

tions which were reported were duly charged on the one hand to the contractor, and credited on the other to said Roberts, further deposes and saith, that, for the 4th quarter of 1839, the blank acknowledgment sent by deponent to said Allen for said route No. 2701 was subsequently transmitted to the said Auditor, and was in due course of business received and filed by deponent, but that said acknowledgment was without the signature thereto affixed of said Allen, but was filled up with various sums, as collected from different postmasters, corresponding with the printed receipts given said postmaster by said Allen, and transmitted by them; that, in this acknowledgment, there was entered, as collected from said Roberts, the sum of $1,054.09, and the said Roberts having forwarded said Allen's receipt for the said sum of $1,054 09, dated 6 January, 1840, the said sum was duly charged to said Allen, and credited to said Roberts by deponent, and will, as deponent believes, be found in like manner credited in the account of said Roberts, certified by said Auditor for suit in said district of Illinois; and deponent hereto annexes, and makes part of this deposition, a copy of said acknowledgment, marked A, and copy of said receipt, marked B.

And deponent, to explain the settlement made at the end of each quarter with said Allen, as contractor, subjoins the following statement of the general settlement made for all his mail routes, for the said 4th quarter of 1839:

Allowed said Allen, for carrying the mail on route No. 2701		$1187 50
" " " " 2707		1187 50
" " " " 2714		1230 50
		$3605 50
Deduct collections on route 2701 - -	$1890 90	
" do. 2707 - -	293 31	
" do. 2714 - -	66 20	
" fines imposed by P. M. G. on 2701 -	50 00	
" " " 2707 -	3 00	
Draft on late P. M., sent said Allen for collection - - - - - -	36 72	
		2340 13
Leaving - - - - - -		$1265 37

Out of this balance of $1265.37, there was first paid a draft of said Allen's, in favor of Nathaniel Wright, for $350; and, for the balance of $915 37, a draft of the Postmaster General, No. 8756, in favor of said Allen, on the postmaster at Cincinnati, was sent to said Allen, on the 17th of March of said 1840.

And deponent further saith, that the forms before mentioned and annexed, and the collections and settlements for the 4th quarter of 1839 thus described, will, as he believes, abundantly show that said Allen had no authority to draw on and receive from said postmaster from time to time, as alleged in his affidavit, but that he was restricted in his col-

lections to the close of each quarter, and to the use in said collections of said printed receipts; and they will further show, as deponent believes, the object and necessity for said restrictions, inasmuch as it will be apparent, that, if the contractor possessed such general authority to draw and receive, without the supervision and restriction of said receipts and quarters, and had so received, and if he and the said postmaster had failed to give notice of such drafts and receipts, the amount could not be charged to the contractor in his quarterly settlement, and the Department would necessarily be compelled to pay to him the full amount of the balance found due on settlement, notwithstanding and over and above such irregular drafts and receipts not reported by him or the postmaster.

And deponent further saith, that, for the 1st quarter of the year 1840, the said Allen transmitted an acknowledgment, a copy of which is hereto annexed and made part of this deposition, marked C; and that the said Roberts transmitted said Allen's receipt, dated 4th April, 1840, a copy of which is also hereto annexed, and made a part of this deposition, marked D; and that the amount of said receipt, to wit, $1240.88, being the same as entered in said acknowledgment, was by deponent charged to said Allen, and credited to said Roberts in the account before mentioned, and will be found, as deponent believes, in the account of said Roberts certified for suit as aforesaid; and deponent, supposing a minute description of the settlement with the contractor for this 1st quarter of 1840, for all his said routes, No. 2701, 2707, and 2714 is not necessary to the object proposed by his deposition, contents himself with saying generally, that, after crediting said contractor for his regular mail pay for said quarter on all said routes, and deducting the amount, including a draft on late postmaster at Tremont, Illinois, of $47.53, of all collections and fines, the balance found due was $1010.55, and that, under a special allowance of the Postmaster General, he was found entitled to the further sum of $518.74, both which sums were paid by draft delivered to M. Allen, in person, at the Department.

And deponent further saith, that, for the 2d quarter [of] 1840, the said Allen transmitted an acknowledgment of collections on said route, No. 2701, a copy of which, marked E, is hereto annexed and made part of this deposition; that in this acknowledgment the said Allen did not acknowledge any sum as received from the postmaster of Springfield, but that said Roberts having transmitted said Allen's regular and proper receipt for $956.87, dated 7th July, 1840, a copy of which, marked F, is hereto annexed and made part of this deposition, deponent entered a credit therefor to said Roberts, and charged said Allen, in his account before mentioned, as kept by deponent, and in the general settlement for the quarter, for the mail pay, collections, &c., on said route No. 2701 and routes 2707 and 2714.

A[nd] deponent further saith, that, for the 3d quarter of 1840, the said Allen transmitted an acknowledgment for collection made on route No. 2701, a copy of which, marked G, is hereto annexed, and made a

part of this deposition; that, in this acknowledgment, the said Allen acknowledged no sum as received from said Roberts, and that no receipt having been received from said Roberts, no charge was made on account of any such collection against said Allen for said quarter, nor was any credit given to said Roberts; but that deponent, considering that said Roberts was in default in respect to said quarter by not paying over his quarterly dues to the said contractor according to his duty under his standing instructions, and upon the printed receipts sent to the contractor for that purpose, regarded it as his duty to report said default for the information of the Postmaster General, and did accordingly make such report on the 14th of November, 1840.

And deponent further saith, that, for the fourth quarter of 1840, the said Allen transmitted an acknowledgment for collecting on said route No. 2701, a copy of which, marked H, is hereto annexed and made part of this deposition; that, in this acknowledgment, said Allen having reported no sum as collected from said postmaster, and the said Roberts having forwarded no receipt, no debit to the contractor, or credit to the postmaster in like manner, was given for said 4th quarter of 1840.

And defendant further saith, that for the first quarter of 1841 the said Allen transmitted an acknowledgment of collections on said route, No. 2701, a copy of which is hereto annexed, marked I, and made part of this deposition; that in this acknowledgment the said Allen acknowledged himself to have received the sum of $733.28 from J. W. Keys, the successor of said Roberts, for the part of said quarter said Keys was in office, but acknowledged no sum as received from said Roberts, and that neither did the said Roberts transmit any receipt of said Allen for said first quarter, or for any part thereof, during which he remained in office. And deponent further saith that he has duly credited to said Roberts the amounts of all receipts of said Allen which he has at any time received, and that said credits correspond in every instance with the sums acknowledged by said Allen, except one, namely, for the 2nd quarter [of] 1840, before mentioned, in which said Allen acknowledged no collection, and the credit given was upon his receipt transmitted by said Roberts.

And deponent further saith, that he has never heard, and has no reason to believe, and, on the contrary, entirely disbelieves, that any receipt for any payment made to said Allen by said Roberts, or on his behalf, other than those before mentioned, was ever transmitted or received at the Department, or that said Allen ever acknowledged or reported to the Department any other sum as collected from said Roberts than as before mentioned and described.

And deponent further saith, that said Allen ceased to be contractor on all said routes on the 30th June, 1842, and that the balance found due him, on general settlement to that time, has long since been paid to him in full. That deponent believes if said sum of $1,731.39 was received at different times by said Allen from said Roberts during the year 1840, as alleged in his said affidavit, it must necessarily have been covered by the regular and prescribed receipts subsequently given at the end of the

proper quarters succeeding such different times, and must thus form parts of two or more of the sums for which credits have already been given upon such receipts for such periods; and that if such sum so received at different times, as is alleged, was not so covered and accounted for by regular receipts and acknowledgments at the end of the proper quarter, but was, or was intended to be, over and above the amounts paid on such regular receipts and for such quarter, that then, in that case, such payment over and above was wholly unauthorized, and paid in violation of the instructions given said contractor and postmaster.

THO'S A. SCOTT.

Letter.

POST OFFICE DEPARTMENT, 184 .

To

Postmaster at

SIR: You are required, within two days after the close of each quarter, to forward your quarterly accounts to this Department, or if there be no mail from your office within that time, then by the next mail. The quarters end on the 31st March, 30th June, 30th September, and 31st December.

By having your accounts of mails sent and mails received copied beforehand up to the last day, you can finish the copies, make the calculations, and have them ready to be forwarded in a few hours.

As you have no right to use or credit out the money which belongs to the United States, it is required that you have the balance due at the end of each quarter ready to be paid on demand.

The contractor named at the foot of this letter, who carries the mail on the route there stated, on which your office is situated, is authorized to demand and receive of you, either in person or by his agent, at the end of each quarter, so long as he shall actually carry the mail on said route, or until you shall otherwise be directed, the whole amount due from you to the United States, including the quarter then just terminated, as shown in your account current.

Blank forms of orders and receipts, (specimens of which, filled up, are hereto annexed,) will be sent for every collection to the contractor. These forms, and no others, must be used in your payments to contractors. If the contractor call on you in person for the money, the orders will not be necessary, and you will take from him two receipts in the form prescribed, one of which you will keep, and send the other by the next mail to the Auditor for the Post Office Department. If any other person call for the money as agent, he must produce to you two orders in the prescribed form, signed by the contractor, with blank receipts annexed; and after you have paid him, he will fill up and sign both receipts, and leave both orders and both receipts with you; one of each you will forthwith send to the Auditor, Post Office Department, and retain the other.

These claims and orders cannot be sold, negotiated, or transferred, and no credit will be allowed you for any payment to any other person

than the contractor, or the person named in his orders; nor in the latter case will credit be allowed, unless the order accompany the receipt, nor unless the receipt be dated on the day when the money is paid.

When demand is made of you as herein prescribed, it is expected that you will make instant payment, and the contractor is instructed to report forthwith to the Department every refusal on your part.

Very respectfully, your obedient servant.

Pay to

contractor on route No.

☞ You will take care to write or stamp the name of your office on the outside of the packet containing your quarterly returns for each quarter.

Letter.

To the Postmaster at (*Lebanon*,) State of (*Maine*.)

Pay to (*John Smith*) the whole amount due from you to the United States, including the amount accruing during the quarter ending 30th Sept., 1836, as shown by your account current.

(*JOSEPH GRANT*,) Contractor.

(*September* 28, 1836.)

Mail Route, No. 73.

Received, this (*3d day of October*, 1836,) of (Daniel Wood,) postmaster at (Lebanon,) State of (Maine, one hundred and twenty-seven) dollars, (*seventy-nine*) cents, being the amount due from him to the United States for the quarter ending 30th September, 1836, as shown by his account current, including all previous dues.

(*JOHN SMITH.*)

127 *dolls.* 79 *cents.*

Note. The words and figures printed in *italics* and included in parentheses, are omitted in the forms sent to the contractor, which will be filled up with the proper names, sums, and dates, when they are used.

In case the contractor call himself, he will sign the receipts, and the orders being unnecessary may be torn off.

POST OFFICE DEPARTMENT, 183 .

To

contractor on mail route, No.

The postmaster at [and]
are instructed to pay over to you, or your order, on demand, at the end of each quarter, so long as you shall actually carry the mail on said route, or until they shall be otherwise directed, the whole amount due from them to the Department, for the quarter then just terminated, as shown by their several accounts current.

You are requested to make demand as soon as possible after the first day of the next quarter, and report to the Department every failure or refusal to pay, with the reasons therefor, whether given by the postmasters, or otherwise known to you.

When you have received the balances due from all these postmasters, or as many of them as can be collected, you will fill up, sign, and send to the Department the blank "acknowledgment" sent to you, of which a specimen is annexed; showing the name of each postmaster, the name of his office, and the amount received from him, upon receipt of which a draft will be forwarded for any amount which may still be due to you; provided that in case you fail to collect any one of said balances, no part of the balance due will be paid you until the Department shall be satisfied that you have used due diligence to effect the collection, and that it could not be done.

Herewith you will also receive the proper number of orders and receipts, in blank, for collections on the above route—that is, an original and duplicate for each office, which you are required to use in all your collections from the postmasters. Similar blanks will be forwarded for each successive quarter. You will collect at the end of each quarter from those offices only which are named in the blanks sent to you for that quarter. If you apply for the money in person, the orders will be unnecessary, and you will fill up and hand to each postmaster from whom you may receive payment, the original and duplicate receipts, sent to you for his office; one for his own use, the other to be sent to the Department. If you send any other person to call for the money at an office, you will fill up in his favor, and give him the two orders, (original and duplicate,) sent to you for that office, with the blank receipts annexed; and when he has received the money, he will fill up and sign the annexed receipts, and leave both orders and both receipts with the Postmaster.

You are not authorized to sell, negotiate, or transfer any of these claims, and no payment will be recognised by the Department unless made directly to you, or to the person named in your orders.

Every order and every receipt must bear the true date of its signature, in default of which it will not be considered a good voucher at the Department. Very respectfully, your obedient servant.

Acknowledgment.

Mail route No. 1118, from (Stroudsburgh, Pa.) to (Lenox, Pa.)

(MONTROSE, PENN., *Oct.* 14,) 1835.

I have received from postmasters on the above mail route for carrying the mail on said route, during the quarter ending the 30th September, 1835, the following sums of money, to wit,

From (*Jos. Wragg*,) postmaster at (*Clifton*,) -	- $(6 50)
From *Dav. Dale*, postmaster at *New Covington*,	- 4 25)
From *John Vaughn*, postmaster at *Providence*,	- 9 00)
From *N. D. Green*, postmaster at *Abingdon*, -	- 12 35)
From *E. Wall*, postmaster at *Wallsville*	- - 7 12)
From *O. Reynerson*, postmaster at *Lenox*,	- - 5 40)
(In all)	($44 62)

(C. L. WARD,)
(*Contractor.*)

Note. The words and figures printed in italics, and included in parentheses, are omitted in the forms sent to the contractor, which will be filled up with the proper date, names of postmasters, and sums, when they are used.

No. 3.

☞ If payment be made to the contractor in person, he will sign the original and duplicate receipts, and leave them with the postmaster; the orders may be torn off. If payment be made to an agent, the contractor will sign the original and duplicate orders, and the agent will sign the receipts, and leave all with the postmaster.

To the Postmaster at , State of .

Pay to the whole amount due from you to the United States, including the amount accruing during the quarter ending March 31, 1838, as shown by your account current.

183 .

Contractor.

Mail Route No.

Received this day of , 183 , from Postmaster at , State of , dollars cents, being the amount due from him to the United States for the quarter ending March 31st, 1838, as shown by his account current, including all previous dues.

_____

$ _____

The postmaster will forward one receipt, and when he pays to an agent, one order and receipt forthwith to the auditor for the Post Office Department; in default of which he will not have credit for the payment.

[Endorsed:] THOS. A. SCOTT.

If payment be not duly made, the contractor will return both the original and duplicate orders, noting thereon the date when demand was made, and the reason why the postmaster did not pay.

(Duplicate.)

To the Postmaster at , State of .

Pay to the whole amount due from you to the United States, including the amount accruing during the quarter ending March 31st, 1838, as shown by your account current.

183 .

Contractor.

(Duplicate.)

Mail Route No.

Received this day of , 183 , from Postmaster at , State of , dollars cents, being the amount due from him to the United States for the quarter ending March 31st, 1838, as shown by his account current, including all previous dues.

$

Note. The words and figures printed in italics, and included in parentheses, are omitted in the forms sent to the contractor, which will be filled up with the proper date, names of postmasters, and sums, when they are used.

No. 3.

To the Postmaster at , State of .

Pay to the whole amount due from you to the United States, including the amount accruing during the quarter ending March 31, 1838, as shown by your account current.

183 .

Contractor.

☞ If payment be made to the contractor in person, he will sign the original and duplicate receipts, and leave them with the postmaster; the orders may be torn off. If payment be made to an agent, the contractor will sign the original and duplicate orders, and the agent will sign the receipts, and leave all with the postmaster.

Mail Route No.

Received this day of , 183 , from Postmaster at , State of , dollars cents, being the amount due from him to the United States for the quarter ending March 31st, 1838, as shown by his account current, including all previous dues.

$

The postmaster will forward one receipt, and when he pays to an agent, one order and receipt forthwith to the auditor for the Post Office Department; in default of which he will not have credit for the payment.

[Endorsed:] THOS. A. SCOTT.

If payment be not duly made, the contractor will return both the original and duplicate orders, noting thereon the date when demand was made, and the reason why the postmaster did not pay.

(Duplicate.)

To the Postmaster at , State of .

Pay to the whole amount due from you to the United States, including the amount accruing during the quarter ending March 31st, 1838, as shown by your account current.

183 .

Contractor.

(Duplicate.)

Mail Route No.

Received this day of , 183 , from Postmaster at , State of , dollars cents, being the amount due from him to the United States for the quarter ending March 31st, 1838, as shown by his account current, including all previous dues.

$

Copy No. 4.—Acknowledgment.

Route from to

183 .

I have received from postmasters on the above mail route, for carrying the mail on said route during the quarter ending 31st March, 1838, the following sums of money, to wit:

☞ See notes in the margin.

Postmasters' names.	Office and State.	Dollars.	Cents.

☞ Be sure to write every postmaster's name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster, state the cause of your failure, and the day when the demand was made; then enclose this acknowledgment, directed to the Auditor for the Post Office Department.

☞ No authority to collect will be forwarded hereafter, until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments are received.

Endorsed: THOS. A. SCOTT.

Copy.—Acknowledgment.

Route 701, From Springfield to Terre Haute.

183 .

I have received from postmasters on the above mail route, for carrying the mail on said route during the quarter ending 31st December, 1839, the following sums of money, to wit:

See notes in the margin.

Postmasters' names.	Office and State.		Dolls. cts.
J. S. Roberts -	Springfield,	Ill.	1,054 09
	Rochester,	"	
P. Peek - -	Bleu Point,	"	4 70
	Allenton,	"	
Wm. Langston -	Paradise,	"	22 38½
John True - -	Bethsaida,	"	5 87
C. S. Morton -	Cole C. H.,	"	128 77¾
James Hite - -	Hitesville,	"	18 50
Wm. K. Payne -	Grand View,	"	49 25
T. D. Calvin -	Eldridge,	"	12 44¾
J. O. Jones -	Terre Haute,	Ia.	594 88¾
			836 81¾
	[SEAL.]		1,890 90¾

☞ Be sure to write every postmaster's name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster, state the cause of your failure, and the day when the demand was made; then enclose this acknowledgment, directed to the Auditor for the Post Office Department.

☞ No authority to collect will be forwarded hereafter, until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments are received.

B.

Mail route No. 2701.

Received, this 6th day of January, 1840, from J. S. Roberts, postmaster at Springfield, State of Illinois, ten hundred and fifty-four dollars 09 cents, being the amount due from him to the United States for the quarter ending December 31st, 1839, as shown by his account current, including all previous dues.

$1,054 dollars 9 cents.

(Signed) ROBERT ALLEN.

Copy.—Acknowledgment.

Route No. 2701, from Springfield to Terre Haute, 1842.

I have received from postmasters on above mail route, for carrying the mail on said route, during the quarter ending 31st March, 1840, the following sums of money, to wit:

☞ See notes in the margin.

Postmasters' Names.	Office and State.	Dollars.	Cts.
	Springfield, Illinois -	1,240	88
	Rochester, " -	15	00
P. Peek - - -	Blue Point, " -	15	84½
R. C. Nabb - -	Paradise, " -	11	36
John True - -	Bethsaida " -	9	02¼
C. S. Morton - -	Cole C. H., " -	131	65
James Hite - -	Hitesville, " -	19	36
Wm. K. Payne - -	Grand View, " -	63	39
T. D. Calvin - -	Eldridge, " -	17	59
J. O. Jones - -	Terre Haute, " -	601	78
	In all - -	2,025	37¾

Signed, ROBERT ALLEN, *Contractor*. [SEAL.]

☞ Be sure to write every postmaster's name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster, state the cause of your failure, and the day when the demand was made. Then enclose this acknowledgment, directed to the "Auditor for the Post Office Department."

☞ No authority to collect will be forwarded hereafter until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments are received.

Copy.—D.

Mail route No. 2701.

Received, this 4th day of April, 1840, from John S. Roberts, postmaster at Springfield, State of Illinois, twelve hundred and forty dollars 88 cents, being the amount due from him to the United States for the quarter ending March 31st, 1840, as shown by his account current, including all previous dues.

1,240 dollars 88 cents.

Signed, ROBERT ALLEN.

Copy E.—Acknowledgment.

Route No. 2701, from Springfield to Terre Haute, 1842.

I have received from postmasters on the above mail route, for carrying the mail on said route, during the quarter ending 30th June, 1840, the following sums of money, to wit:

(☞ See notes in the margin.)

Postmasters' Names.	Office and State.	Dollars.	Cts.
	Springfield, Illinois.		
C. B. Stafford - -	Rochester, " -	14	20
Presley Peck - -	Blue Point, " -	16	61
Robert C. Nabb - -	Paradise, " -	30	00
John True - -	Bethsaida " -	5	90
C. S. Morton - -	Cole C. H., " -	92	53
James Hite - -	Hitesville " -	25	56
Thomas Smith - -	Grand View, " -	14	22
T. D. Calvin - -	Eldridge, " -	17	92
J. O. Jones - -	Terre Haute, Ia. -	594	85
	In all - -		

Signed, ROBERT ALLEN, *Contractor*. [SEAL.]

☞ Be sure to write every postmasters name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster, state the cause of your failure, and the day when the demand was made. Then enclose this acknowledgement, and enclose also the blank receipts for the postmasters who may fail to pay, and direct them to the Auditor for the Post Office Department.

☞ No authority to collect will be forwarded hereafter until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments, and the blanks on postmasters who have not paid, are received.

Duplicate copy.

F.—Mail route No. 2701.

Received this 7th day of July, 1840, from J. S. Roberts, postmaster at Springfield, State of Illinois, nine hundred and fifty-six dollars cents $\frac{87}{100}$, being the amount due from him to the United States, for the quarter ending June 30, 1840, as shown by his account current, including all previous dues.

956 dolls. 87 cents.

Signed, ROBERT ALLEN.

Copy G.—Acknowledgment.

Route No. 2701. From to , 1842.

I have received from postmasters on the above mail route, for carrying the mail on said route, during the quarter ending 30th September, 1840, the following sums of money, to wit:

☞ See notes in the margin.

Postmasters' names.	Office and State.	Dollars.	Cents.
	Springfield, Ill.		
	Rochester, "		
Presley Peek - -	Blue Point, " - -	15	66
Robert C. Nabb - -	Paradise. " - -	26	51
John True - -	Bethsaida, " - -	9	67
C. S. Morton - -	Cole C. H., " - -	73	18¾
James Hite - -	Hitesville, " - -	23	00
Thomas Smith - -	Grand View, " - -	50	73⅓
T. D. Calvin - -	Eldridge, " - -	18	53
J. O. Jones - -	Terre Haute, Ia. - -	559	49
	In all - -	$776	78

Signed, ROBERT ALLEN, *Contractor*. [SEAL.]

☞ Be sure to write every postmaster's name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster state the cause of your failure, and the day when the demand was made. Then enclose this acknowledgment, and enclose also the blank receipts for the postmasters who may fail to pay, and direct them to the Auditor for the Post Office Department.

☞ No authority to collect will be forwarded hereafter, until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments, and the blanks on postmasters who have not paid are received.

Copy H.—Acknowledgment.

Route No. 2701. From to , 1842.

I have received from postmasters on the above mail route, for carrying the mail on said route, during the quarter ending 31st December, 1840, the following sums of money, to wit:

☞ See notes in the margin.

Postmasters' names.	Office and State.	Dollars.	Cents.
	Springfield, Ill.		
C. B. Stafford - -	Rochester, Ill. - -	28	06
	Blue Point, " - -		
R. C. Nabb - -	Paradise, " - -	22	57
John True - -	Bethsaida, " - -	7	51
C. S. Morton - -	Coles C. H., " - -	67	50
James Hite - -	Hitesville, " - -	15	40
Thos. Smith - -	Grand View, " - -	48	20
T. D. Calvin - -	Eldridge, " - -	12	03½
J. O. Jones - -	Terre Haute, Ia. - -	509	00
	In all - -	710	27½

Signed, ROBERT ALLEN, *Contractor*. [SEAL.]

☞ Be sure to write every postmaster's name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster state the cause of your failure, and the day when the demand was made. Then enclose this acknowledgment, and enclose also the blank receipts for the postmasters who may fail to pay, and direct them to the "Auditor for the Post Office Department."

☞ No authority to collect will be forwarded hereafter, until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments and the blanks on postmasters who have not paid are received.

I.—Acknowledgment.

Route No. 2701. From to , 1842.

I have received from postmasters on the above mail route, for carrying the mail on said route, during the quarter ending 31st March, 1841, the following sums of money, to wit:

☞ See notes in the margin.

Postmasters' names.	Office and State.	Dollars.	Cents.
Jas. W. Keyes - -	Springfield, Ill. - -	733	28
C. B. Stafford - -	Rochester, " - -	16	24
	Blue Point, "		
R. Knabb - - -	Paradise, " - -	22	37
John True - -	Bethsaida, " - -	11	29½
C. S. Morton - -	Cole C. H., " - -	94	46⅕
Henry G. Smith - -	Hitesville, " - -	23	31¾
Thos. Smith - -	Grand View, " - -	50	37
T. D. Calvin - -	Eldridge, " - -	15	08
J. O. Jones - -	Terre Haute, Ia. - -	539	62
		772	75¾
		733	28
	In all - -	$1506	03

Signed, ROBERT ALLEN, *Contractor*. [SEAL.]

☞ Be sure to write every postmaster's name from whom money may be received, and sign your name (or the name of your firm) at the bottom. When you fail to collect from a postmaster state the cause of your failure, and the day when the demand was made. Then enclose this acknowledgment, and enclose also the blank receipts for the postmasters who may fail to pay, and direct them to the "Auditor for the Post Office Department."

☞ No authority to collect will be forwarded hereafter, until this form of acknowledgment shall be returned; and no balance will be paid until all the acknowledgments, and the blanks on postmasters who have not paid are received.

The foregoing transcripts, marked A, B, C, D, E, F, G, H, I, are true and correct copies of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused [SEAL.] to be affixed my seal of office, this eighteenth day of November, in the year one thousand eight hundred and forty-five.

P. G. WASHINGTON,
Auditor of the Treasury for the Post Office Department.

Affidavit of Robert Allen.

In the U. States circuit court, district of Illinois.

JOHN S. ROBERTS and others } ads.
THE UNITED STATES. }

DISTRICT OF ILLINOIS, *Sangamon county, ss:*

Robert Allen, of said county, being duly sworn, deposeth and says:

That in the year one thousand eight hundred and forty he was a stage contractor, and that it was the usual course for the contractor to draw on the postmasters and receive and receipt the amounts received, and that the amount of annexed receipts was by him, as such contractor, at different times drawn for and received, and the annexed general receipt given. And that deponent received all of said money, and informed by letter the Post Office Department thereof; and that deponent gave to the said Department credit for that amount on his contract, but whether the same has been allowed to the defendants in the Department this deponent does not know, as the accounts between this deponent and said Department are still unsettled, but that the same in said receipt mentioned is or should be allowed to said defendants, as the Department have received the benefit thereof upon this deponent's contract.

ROBERT ALLEN.

Sworn to and subscribed this 15th December, 1842, before me.

SCUYLER STRONG, *Commissioner, &c.,*
U. S. cir. court, district Illinois.

Receipt.

Copy of receipt annexed to the above affidavit.

Received of John S. Roberts, postmaster at Springfield, Ill., (per Gen. James Adams, one of his sureties,) seventeen hundred and thirty-one dollars $\frac{39}{100}$ of the amount due up to the first of January, 1841, to the P. O. Department.

ROBERT ALLEN.

Affidavit of John S. Roberts.

District of Illinois

JOHN S. ROBERTS, James Adams, and James F. Reed, ads.
THE UNITED STATES OF AMERICA. } Debt $5,000.

John S. Roberts, one of the defendants in the above entitled cause, being duly sworn, says, that he had employed counsel in the above entitled cause to attend to the same in this court, and had supposed the proper defence would have been put in by such counsel; and further says, that he has large items of set-off which have been forwarded to the Post Office Department, which items of set-off were not allowed to this deponent in the judgment rendered herein; he therefore prays the court that the default herein may be set aside, that he may be allowed to introduce the items of set-off aforesaid, and make his legal defence.

JOHN S. ROBERTS.

Sworn to and subscribed before me, this 15th Dec., 1842.

SCUYLER STRONG, *Commissioner, &c.,*
U. S. cir. court, district of Illinois.

UNITED STATES OF AMERICA, *District of Illinois, ss:*

I, James F. Owings, clerk of the circuit court of the United States, for the district aforesaid, do hereby certify, that the forgoing are true and

correct copies of the affidavit and receipt of Robert Allen, and of the affidavit of John S. Roberts, filed in the above entitled cause, as the same remain on the files of said court.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, at Springfield, in said district, this [SEAL.] 29th day of December, A. D. 1842, and of our independence the 67th year.

JAMES F. OWINGS, *Clerk.*

And I, the said W. W. Seaton, mayor aforesaid, further certify, that at the same time, before me, personally came Peter G. Washington, of lawful age, and likewise a witness produced on the part of the plaintiffs in the suit aforesaid; and the said P. G. Washington, being by me first carefully examined and cautioned and sworn to testify the whole truth, deposed as follows, to wit:

Deposition of P. G. Washington.

That he is now, and has been, auditor of the Treasury for the Post Office Department since the 26th day of March last; that prior to said 26 March last, and from the 20th September, 1836, deponent was chief clerk in the office of the said auditor. That amongst other duties which appertained to deponent as chief clerk as aforesaid, he had charge, during the whole of said period, of all suits commenced for the recovery of balances due in the Post Office Department, from late postmasters, contractors, and other persons; that in relation to balances due from postmasters upon their going out of office, whether by resignation or otherwise, the course of business in said auditor's office, whilst deponent was chief clerk, was, for the proper collecting clerk for the State or Territory in which the office of the postmaster was situated, to state, or cause to be stated, the general amount of the late postmaster *one* the one hand, with the balances found due upon examination of his quarterly returns, and with the estimated postages, according to law, for any period for which he may have failed to render returns; and crediting him, on the other hand, with his payments properly made in pursuance of instructions of the Postmaster General, on account of the same for the service of the Post Office Department, to preserve the account so stated on the files of the office for future use and reference, and to transmit a copy thereof to the said late postmaster for his information; and further, after a reasonable delay, to afford such late postmaster an opportunity to make any exception to such account he might think fit, to cause a draft or drafts of the Postmaster General, countersigned by the auditor, to issue in favor of some contractor, or other agent of the Department, for the collection of the balance due on such account; and, finally, upon failure to collect, to take the direction of the auditor or chief clerk upon the question of commencing suit, and if affirmatively directed, to prepare a certified transcript of the account and other necessary papers, and transmit them to the district attorney for the district in which the debtor may reside.

And deponent further saith, that the case being thus prepared and sent to the district attorney, and the proper entry made thereof in the suit docket in the custody of deponent, the original account stated as before described, including the correspondence and other papers, thence fell under deponent's charge as chief clerk, and it became his duty thenceforward to conduct all the correspondence arising out of, or in relation to, the same, and particularly to receive and examine all claims made by way of set-off to the balances certified, and in so far as such claims might be found, upon such examination, without warrant and inadmissible, to give the proper information thereof to the district attorney having the suit in charge, and otherwise to furnish him the means, so far as they could be obtained, of resisting such claims, if introduced on the trial.

And deponent further saith, that the case of J. S. Roberts and his sureties, the defendants in this cause, when brought to his notice as chief clerk as aforesaid, being regarded by him as more than usually important, from the amount involved, and other circumstances, deponent prepared the letter to the district attorney directing the suit to be brought, and on the same day, to wit, the 18th June, 1842, deponent also prepared a letter to the postmaster at Springfield, Illinois, enclosing præcipes for the issue of writs; both which said letters were approved and signed by the then auditor, Elisha Whittlesey, esquire.

And deponent further saith, that at the same time an entry was made in his suit docket of the said case against said J. S. Roberts and his sureties, and that the original account of said Roberts, stated by the proper collecting clerk, as before described, and all the papers belonging to the same, were then transferred to his immediate care and charge, and so remained whilst deponent continued to be chief clerk as before stated.

And deponent further saith, that it appears, from a memorandum on said original account, made in the usual course of business, as well as from the letter book of the office, that prior to the transmission of the said case for suit, to wit, on the 29th day of January, 1842, a copy of said account had been sent to J. W. Keyes, as postmaster at Springfield, and that he was instructed to present said account to the said sureties of said J. S. Roberts, and to inform them that a draft would be issued for the amount. And it also appears, by a memorandum endorsed on said original account, that two drafts were accordingly issued, also before suit, to wit, on the 17th March, 1842, one in favor of Robert Allen, contractor, for the sum of $1600, and the other in favor of A. L. Mills, contractor, for the sum of $1218 84, amounting, together, to the balance claimed on the said account.

And deponent further saith, that although both of said drafts were noted at the time of issue on the draft books used for such purpose, yet that being returned by said contractors unpaid, they were not carried into their accounts as payments to them, or either of them, and their amounts were not, in whole or in part, deducted from the pay of

said contractors, or either of them, which was paid to them respectively irrespective of said drafts.

And deponent further saith, that the said drafts so returned unpaid, together with the letters of the contractors returning them, were, by deponent, transmitted to J. Butterfield, esquire, then district attorney, in a letter prepared by deponent for that purpose, dated the 16th Sept., 1842, and signed by E. Whittlesey, esquire, auditor, as aforesaid in order that the said district attorney might have the best evidence of such demand and non-payment on said drafts.

And deponent further saith, that Robert Allen, before mentioned, was a contractor for carrying the mail in the State of Illinois for several years prior to the 30th June, 1842, and that up to said 30th June, 1842, said Allen had authority to collect from certain postmasters, and, amongst others, from the said J. S. Roberts, P. M. at Springfield, whilst he remained in office, in manner and form set forth in the foregoing deposition of Thomas A. Scott, a clerk in deponent's office, and which deposition correctly sets forth the course of the business under the regulations established by the Postmaster General for making such collections from postmasters, into the hands of contractors, on account of their quarterly pay.

And deponent further saith, that on the said 30th June, 1842, the contracts of said Robert Allen for carrying the mail expired, and that he has not, since that time, rendered any service, or become entitled to any pay from the Department, so far as defendant knows or believes; that prior to said 30th June, 1842, and to the present time, it was, and is, the practice of this office to make a settlement with the contractors, for their pay for each quarter, as soon after the close of such quarter as it could be conveniently done, after receiving evidence of service and their acknowledgments of collections from postmasters upon their routes; and after deducting the amounts of such collections, and any fines imposed by the Postmaster General, to report the balance due to the Postmaster General for payment, and upon his issuing a draft or a warrant for such balance, for this office to remit the draft to the contractor, or to send the warrant, as the case might be, to the Treasurer of the United States for remittance to the contractor in payment.

And deponent further saith, that it appears, from the books of his office, that such a settlement was made of the pay of said Allen, for the final quarter of his service, as contractor to wit, to 30th June, 1842, and that such settlement was reported to the Postmaster General on the 9th day of September, 1842, showing a balance due to said Allen of $881 37, and that the Postmaster General having issued his warrant in payment of the said balance, and the said warrant having been countersigned by the acting auditor, and sent to the treasurer, and having by him been directed to the Southwark Bank, Philadelphia, for payment, and remitted to said Allen, deponent annexes hereto, and makes part of this deposition, a certified copy of the same; said warrant, after being paid by said bank, upon said Allen's order, and returned by it to the said treasurer, having been, in the course of business, rendered to this office

by the treasurer as a voucher in his account for payments on account of the Post Office Department.

And deponent further saith, that whilst holding the office of chief clerk, to wit, about the first of March, 1843, a letter was received at the auditor's office, and referred to deponent, according to the usual course of business, from J. Butterfield, esq'r, then district attorney, dated 19th Feb'y, 1843, and enclosing a copy of an affidavit made by said Robert Allen in this cause, and a copy of a receipt given by him to James Adams, one of the sureties of said J. S. Roberts, for the sum of $1731 39, the said affidavit setting forth that said Allen drew for and received said amount at different times, and informed the Post Office Department thereof by letter; and about the same time deponent had referred to him another copy of said affidavit and receipt, with a copy attached of an affidavit alleged to have been made also in this cause by the said J. S. Roberts, setting forth, among other things, that said Roberts had large items of set-off, which had been forwarded to the Post Office Department, and been disallowed. And deponent then made an affidavit to rebut said affidavits, and with the same object procured affidavits to be made by said Elisha Whittlesey and said Thomas A. Scott, and having, on said occasion, fully examined the whole subject, became well satisfied, as he now is, that unless the said sum of $1731 39, drawn for and received at different times, was composed of sums which were afterwards, to wit, at the end of the quarter, merged in and covered by the sums for which the said Allen gave the proper receipts, and which he properly reported in his acknowledgments for such quarter—the said sum of $1731 39, and as a separate and specific payment, never came to the knowledge of the Department, and was never charged to him, over and above the sums regularly reported, and at the same time charged to him, and credited to the said J. S. Roberts.

And deponent further saith, that from the time a statement of the account of said Roberts was sent, as before stated, to wit, on the 29th January, 1842, for the information of the parties liable to the present, he, deponent, has had no knowledge whatever of any exceptions taken to said account, nor of any items of set-off on the part of said Roberts, except the pretended set-off founded upon the receipt of said Allen, which came first to the knowledge of deponent at the time and in the manner before stated, and long after the final payment was made to said Allen in September, 1842, for the balance due him for carrying the mails, as before stated.

And deponent further saith, that the original receipt of said Allen for $1,731.39, before referred to, was also received at the Auditor's office in a letter signed by James Adams, for himself and J. F. Reed, and dated 14th January, 1843, but not, as deponent believes, before the copies were received, as before stated; and that deponent returned the said original receipt to said Adams in a letter dated the 11th May, 1843, as appears by a memorandum made at the time on a copy of said receipt, which deponent prepared and retained.

And deponent further saith, that he has now caused a statement of the account of said Robert Allen, as contractor, to be prepared, and has certified the same according to law, and annexes the same, and makes it a part of this deposition, to show, among other things, more fully the final payment to said Allen of $881.37, on 13th September, 1842, as before stated.

And deponent further saith, that the said sum of $1,731.39, so alleged to have been at different times drawn for and received by said Allen, forms no part of the moneys charged in the said account to said Allen, unless, as before stated, the said receipts, at different times, are merged in and covered by his regular receipts and acknowledgments; and, in that case, the said receipts are charged in said account as upon said regular receipts and acknowledgments, and not upon the irregular and illegal receipt for the specific sum of $1,731.39, so drawn for and received at different times. And further this deponent saith not.

P. G. WASHINGTON.

And I, the said W. W. Seaton, mayor aforesaid, further certify, that the said testimony of the said Thomas A. Scott and the said P. G. Washington, was by them severally subscribed in my presence, after the same was by them respectively reduced to writing; that I am not of counsel or attorney to either of the said parties, nor interested in the event of said cause; and that no notice was given to the adverse party, or their attorney, in said cause, because neither of them resides within one hundred miles of the place of caption, as I was informed. And I further certify, that the said depositions are taken to be used in the suit aforesaid; and that the cause of taking the same is, that the said Thomas A. Scott and the said P. G. Washington were at a greater distance than one hundred miles from the place of trial of said suit.

In testimony whereof I have hereunto subscribed my name, and caused the seal of the said corporation to be affixed, the day and year above written. [SEAL.] W. W. SEATON, *Mayor*.

Attest: C. H. WILTBERGER, *Register*.

Warrant.

POST OFFICE DEPARTMENT,

To the Treasurer of the United States:

Warrant 8344. Pay to Robert Allen, or order, eight hundred and eighty-one dollars $\frac{37}{100}$, out of moneys in the Treasury for the service of the Post Office Department, agreeably to auditor's report No. 8379.

13th September, 1842.

S. R. HOBBIE,
Acting Postmaster General.

$881 $\frac{37}{100}$. Registered and charged.

P. G. WASHINGTON,
Acting Auditor P. O. Department.

SPRINGFIELD, ILLINOIS.

Southwark Bank, Philadelphia, will pay the within warrant. September 15, 1842. WM. B. RANDOLPH,
Acting treasurer.

Received the amount of the within warrant from the Southwark Bank, Philadelphia, Penn., 1842. J. B. TREVER.

Robert Allen, by J. B. Trever, esq., cashier, or order.
J. A. SHIELDS, *Cashier.*

Certificate.

OFFICE OF THE AUDITOR OF THE TREASURY,
For the Post Office Department:

I hereby certify that the annexed and foregoing is a true copy of the original warrant, and its endorsements, now on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused to be affixed the seal of my office, this 21st day of November, in the year of our Lord one thousand eight hundred and forty-five, at the city of Washington, D. C.
[SEAL.]
P. G. WASHINGTON,
Auditor of the Treasury for the P. O. Department.

Account continued.

1842.	1st qr.	To am't bro't forward	–	$60,974 28	By am't bro't forward,		$68,357 56
		Collections, Ro. 2,701	$1,707 59				
		2,707	203 47				
		2,714	70 89				
		Fines, 2,701	40 00				
		" 2,707	20 00				
April 30		Warrant Mich. Bank New York, No. 7,528	1,500 00	3,541 95			
	2d qr.	Collections, Ro. 2,701	2,259 67				
		2,707	296 29				
		2,714	121 16				
		Fines, –	10 00				
		" 2,701	40 00				
		" 2,707	10 00				
		Draft late Postmaster,	222 84				
Sept. 13		Warrant, Southwark Bank, Philadelphia, No. 8,340	881 37	3,841 33			
				68,357 56			$68,357 56

I certify that the foregoing is a true statement of the account of Robert Allen, mail contractor, to the first July, 1842, as audited and adjusted at this office.

In testimony whereof I have hereunto subscribed my name, and caused to be affixed my seal of office, at Washington, this twenty-second day of November, in the year of our Lord one thousand eight hundred and forty-five.
[SEAL.]
P. G. WASHINGTON,
Auditor of the Treasury for the Post Office Department.

DR. *Robert Allen, mail contractor, in account with the United States.* CR.

		To balance as per statement 31st Dec. 1837 - - - -		$28 74					
1838.	1st qr.	To collections Ro.	2701 - -	2,176 58			2701	By transportation of the mail from Springfield, Illinois, to Terre Haute, Indiana, from Jan'y 1, 1838, to Aug. 16, 1838, 2 quarters 47 days, at $2,437.50 per quarter	$6,120 25
			2707 - -	183 64					
			2714 - -	33 29					
		Fines	" - -	5 00					
		"	2701 - -	175 00					
		"	2707 - -	55 00					
June 20	-	draft P. M. New Orleans, No. 5081		1,405 25					
					$4,062 50			Do. from do. to do., from Aug. 17, 1838, to Mar. 31, 1840, at $1.187 50 per qr., 6 qrs. 45 days	7,705 84
	2d qr.	collections Ro.	2701 - -	1,516 57				1 month's extra pay, on $1,250 per qr. -	416 66
			2707 - -	77 89					
			2714 - -	49 88					
		Fines	" - -	5 00					
		Deductions	" - -	175 00					
Sept. 6	-	draft P. O. Philadelphia, No. 6684		2,238 16					$14,242 75
					4,062 50				
	3d qr.	collections Ro.	2701 - -	1,598 66			2714	From Vandalia to Terre Haute, from Jan'y 1st, 1838, to 31 Mar., 1840, at $437.50 per quarter	3,937 50
			2707 - -	211 35					
			2714 - -	46 75					
		Fines	" - -	30 00					
		"	2701 - -	5 00					
Nov. 26	-	draft P. M. Philadelphia, No. 8298		1,975 99				additional allowance from do. to do. from Aug. 14, 1838, to 31 Mar. 1840, at $218.75 per quarter, (3d weekly trip) -	1,426 62
May 23	-	" late P. M. Dillon - -		5 32					
					3,873 07				
	4th qr.	collections Ro.	2701 - -	1,482 01					
			2707 - -	267 84					
			2714 - -	40 53					
		Fines	" - -	5 00				do. from Sept. 1, 1838, to 31 March, 1840, at $574.25 per qr., running through in 2 instead of 3 days -	3,632 75
		"	2701 - -	10 00					
		"	2707 - -	10 00					
1839.		Deductions	2714 - -	58 33					
Mar. 8	-	draft P. M. Cincinnati, No 84 -		433 47					
		" " " " 85 -		500 00					8,996 87
					2,807 18				

	1st qr.	collections Ro. 2701 - -	1,390 20					from Springfield to Peoria, from Jan'y 1, 1838, to 31 March, 1840, at $1,187.50 per qr., 9 qrs. -	10,687 50
		2707 - -	325 40						
		2714 - -	50 69						
		Fine 2701 - -	10 00						
May 24	–	draft P. M. Cincinnati, No. 1717 -	500 00			3174		from Springfield to Bloomington, from Feb. 1, 1837, to June 30, 1838, at $125 per qr., 5 qrs. 59 days - - - -	706 94
		" " " " 1778 -	536 21						
June 10	–	draft P. M. New York No. 2364 -	551 62						
				3,364 12					
	2d qr.	collections Ro. 2701 - -	1,776 57						
		2707 - -	319 60			2701		trans. from Springfield to Terre Haute, from 1st April, 1840, to 31st Dec., 1841, at $2,437.50 per qr., 7 qrs. - - - $17,062 50	
		2714 - -	64 28						
		Fines " - -	10 00						
Sept. 2	–	draft P. M. Philadelphia, No. 4362	860 80						
				3,031 25					
	3d qr.	collections Ro. 2701 - -	1,583 42						
		2707 - -	354 70						
		2714 - -	69 46						
Dec. 9	–	draft P. M. New York, No. 6255	3,507 92						
				5,515 50					
	4th qr.	collections Ro. 2701 - -	1,890 90						
		2707 - -	293 31						
		2714 - -	66 20						
		Fine 2701 - -	50 00						
1840.		" 2707 - -	3 00					" Springfield to Peoria, from 1st April, 1840, to 31st Dec., 1841,	
Mar. 17	–	draft Cincinnati, No. 8757 -	915 37					7 qrs., at $1,187.50 per qr. -	8,312 50
		" Albany, N. Y., No. 8756 -	350 00						
1839.									
Oct. 31	–	draft late P. M. Cochran's Grove -	26 44						
30		" " Martinsville -	10 28						
				3,605 50					
		Carried forward -	–	$30,321 62				Carried forward -	$51,259 06
		To amount brought forward - -	–	$30,321 62				By amount brought forward - -	$51,259 06
	1st q'r	To collections Ro. 2701 - -	2,125 89						
		2707 - -	287 14			2714		transportation mail from Vandalia to Terre Haute, from 1st Ap'l, 1840, to 31 Dec., 1841, 7 qrs., $437.50 per qr. 3,062 50	
		2714 - -	104 39						
		Fines 2701 - -	30 00						
Mar. 7	–	draft late P. M. Tremont - -	47 53						
May 8	–	draft P. M. New York, No. 9647	1,010 55						

DR. *Robert Allen, mail contractor, in account with the United States.*—Continued. CR.

July 24	–	To draft P. M. Washington, No. 5490	$706 94			By additional allowance from do. to do. at $218 75 per quarter - -	$1,531 25	
	2d q'r	collections Ro. 2701 - -	1,768 66	$4,312 44				
		2707 - -	319 59					
		2714 - -	103 98			additional allowance from do. to do. at $574 25 per qr., 7 qrs. -	4,019 75	
June 1	–	draft P. M. Washington, No. 290	100 00					
		draft P. M. New York, No. 291 -	418 74					
Sept. 9	–	draft P. M. Baltimore, Md., No. 3173 - - - -	1,495 27			do. for increase of stock, and running through in 2 instead of three days, and additional from Sept. 1, 1838, to March 31, 1840, under order P. M General, Aug. 1, '40, for additional stock, at $2,625 per ann., instead of $2,297, under order of Jan'y, 1840 - -	518 74	
				4,206 24				
	3d q'r	collections Ro. 2701 - -	776 95					
		2707 - -	284 92					
		2714 - -	94 44					
Dec. 24	–	warrant receiver general, New York, No. 762 - - -	2,531 19					
				3,687 50				
	4th q'r	collections Ro. 2701 - -	710 24					
		2707 - -	226 33					
		2714 - -	88 63					
		Fines 2701 - -	10 00					
1841.								
Mar. 22	–	warrant P. M. New Haven, No.				do. do. from April 1, 1840, to Dec. 31, 1841, at $82 per qr., 7 qrs. -	574 00	
	–	1736 - - - -	1,071 57					$9,706 24
		warrant Baltimore, Md., No. 1737	152 30					
		warrant receiver general, N. Y., No. 1738 - - -	1,428 43					
				3,687 50	2701	trans. from Springfield to Terre Haute, from 1st Jan'y, 1842, to 1st July, 1842, 2 qrs., at $1,187 50 per qr. - - - -		2,375 00
	1st q'r	collections Ro. 2701 - -	1,506 02					
		2707 - -	278 12					
		2714 - -	100 00					
July 12	–	warrant P. M. Albany, No. 3276 -	900 00					
Sept. 9	–	draft P. M. New York, No. 8324 -	903 26		2707	do. from Springfield to Peoria, from 1st Jan'y, 1842, to 1st July, 1842, 2 qrs., at $1,187 50 per qr. -		2,375 00
June 28	–	draft late P. M. Carry, Ill. -	17 28					
		draft late P. M. Ewington -	17 26					
				3,722 04				

	2d q'r	collections Ro. 2701 - -	1,709 10		2714	do. from Vandalia to Terre Haute,	
		2707 - -	305 73			from 1st Jan'y, 1842, to 1st July,	
		2714 - -	104 85			1842, 2 qrs., at 1,312 50 per qr. -	2,625 00
Sept. 21	–	warrant rec'r gen'l St. Louis, Mo.,					
		No. 4118 - - -	1,533 28			draft late postmaster at Ewington,	
				3,652 96		returned unpaid - -	17 26
	3d q'r	collections Ro. 2701 - -	936 00				
		2707 - -	297 41				
		2714 - -	75 21				
July 13	–	draft late P. M. Grandview -	40 97				
July 15	–	draft late P. M. Paradise - -	15 48				
Dec. 7	–	draft Troy, N. Y., No. 9276 -	1,050 00				
		warrant Merch. Bank, New York,					
		No. 5152 - - -	1,272 43				
				3,687 50			
	4th q'r	collections Ro. 2701 - -	1,733 98				
		2707 - -	227 41				
		2714 - -	93 29				
		Fines 2701 - -	15 00				
1842.		do. 2707 - -	30 00				
Feb. 12	–	draft P. M. Poughkeepsie, N. Y.					
		No. 614 - - - -	1,097 61				
		warrant Merch. Bank, New York,					
		6069 - - - -	499 19				
				3,696 48			
		Amount carried forward - -		$69,974 28		Amount carried forward - -	$68,357 56

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The foregoing was all the testimony introduced by either party.

The plaintiffs, by their counsel, then requested the court to give to the jury the following instructions:

I. If the jury believe from the evidence that the said John S. Roberts continued to hold and exercise the office of postmaster at Springfield, in the State of Illinois, from the date of the said bond, upon which this suit is brought, until the 7th day of February, 1841, and then went out of office; and that he neglected to render his accounts, as such postmaster as aforesaid, for the period from October 1st, 1840, to February 7th, 1841, inclusive, within one month after the time, and in the form and manner prescribed by law, and by the Postmaster General's instructions conformable therewith, or at any subsequent time, then the plaintiffs are entitled to recover double the value of the postages which arose at the same office, in an equal portion of time previous thereto, amounting to the sum of $2,852 70, as certified by the Auditor of the Treasury for the Post Office Department in his certified statement of the account of the said John S. Roberts, as postmaster as aforesaid; which said instruction was refused to be given by the court.

Refused. See instructions.

II. If the jury shall believe from the evidence that the said John S. Roberts held and exercised the said office for the time stated in said first instruction, and neglected to render his accounts for the period stated in said first instruction, within one month after the expiration of the said period, or at any subsequent time, that then the plaintiffs are entitled to recover double the value of the postages, as certified by the said auditor to have arisen at said post office for the preceding quarter, that is to say, from July 1st to September 30th, 1840; which said instruction was given by the court.

Given. See instructions.

III. If the jury believe the facts are as set forth in the certificate of the said auditor to the statement of the said John S. Roberts's account, the said plaintiffs are entitled to recover the sum of $2,852 72 for double postages for the period that the said Roberts neglected to render his accounts, as stated in said certificate; which said instruction was refused to be given by the court.

Refused. See instructions.

IV. If the jury believe from the evidence that the said Roberts neglected to render his accounts, as postmaster as aforesaid, as certified by the said auditor as aforesaid, then the said plaintiffs are entitled to recover the sum of $2,018 86, being double the amount of postages certified by the said auditor to have been received at the same office for the next preceding quarter, that is to say, from the 1st of July to September 30th, 1840; which said instruction was given by the court.

Given.

V. The defendants in this cause are not entitled to a credit for the amount of the receipt of 1,731 $\frac{39}{100}$, executed by Robert Allen, the money mentioned in said receipt having been paid without authority, and in violation of the instructions of the Postmaster General; which said instruction was refused to be given by the court.

Refused. See instructions.

VI. The said defendants are not entitled to a credit for the said receipt of the said Robert Allen, unless the said receipt, or the duplicate thereof, was sent by the next mail, or within a reasonable time after it was executed, to the Auditor of the Post Office Department.

Refused. See instructions.

VII. If the said receipt, or the duplicate thereof, was not sent to the Auditor of the Post Office Department until more than a year after its execution, and until after the statement and adjustment of the accounts of the said Robert Allen, as contractor, at the Post Office Department, as annexed to the depositions of Thomas A. Scott and Peter G. Washington, the defendants are not entitled to a credit or allowance for the said sum of money mentioned in said receipt; which said two last instructions were each refused to be given by the court; but the court, in answer to first four instructions asked for by plaintiffs, charged the jury "that the officers of the Post Office Department had no right to calculate, as they did, that if three months produced a given sum, four months and seven days would produce so much—that it was proper for the jury to charge the defendants with double the postage received during the quarter ending 30th September, 1840, and this for the quarter ending December 31st, 1840; and, as the plaintiffs had furnished no datum for finding a verdict for the time from 1st January, 1841, to 7th February, the jury could find nothing for that period."

Refused. See instructions.

In answer to the 5th, 6th, and 7th instructions asked for by plaintiffs, the court further charged the jury, that if they believed, from the testimony, that the 1,731 dollars 39 cents were paid to Robert Allen before 1st July, 1841, and he was authorized by the Department, under instructions to the postmaster, to receive it; and, if they believe from the testimony that he received no money of the United States which he was not entitled to over and above the $1,731 39, the jury might allow a credit for it to the defendants, although the receipt is not in the form prescribed, and was not reported to the Department in conformity to the instructions, as it could work no wrong to the United States.

And the said plaintiffs, by their counsel, thereupon excepted to the opinion of the court in refusing to give the first, third, fifth, sixth, and seventh instructions, as asked for as aforesaid, and also excepted to the said charge so given by the said court to the said jury as aforesaid, and to each and every part and proposition thereof.

The court then directed the jury to state in their verdict what items and sums they should allow, and what they disallow, in making up said verdict.

The jury then retired from the bar, and afterwards, on the same day, returned into court a verdict as follows:

We, the jury, allow the amount of $921 40, and for the quarter from October to December, estimated at $1,009 41, doubled, making - - - - - - $2,018 86
921 40

$2,940 26
Deduct for receipt - - - 1,731 39

$1,208 89
Interest on $921 40 - - - 276 42
6

5,528 40
5

$27,642 00 $1,485 29

We, the jury, find for the plaintiffs the sum of $1,485 29.

And thereupon the said plaintiffs, in open court, at the same December term of said court as aforesaid, tendered to the said judge of the said court this bill of exceptions, and requested him to sign and seal the same, which is accordingly done, on this 27th day of December, A. D. 1845, in open court.

NATHANIEL POPE, [SEAL.]
Judge.

I, William Pope, clerk of the circuit court of the United States of America, for the district of Illinois, do certify the foregoing to be a true and correct transcript of the original summons, declaration, oyer of bond, pleadings and judgment, and also of the bill of exceptions, as the same appear on file and entered of record in said court, in the case of the United States of America vs. John S. Roberts and James F. Reed, survivors of James Adams, deceased.

In testimony whereof I have hereunto affixed the seal of said court, and subscribed my name, this second day of February, in the [SEAL.] year of our Lord one thousand eight hundred and forty-six, and of our independence the 70th year.

WM. POPE, *Clerk.*

Clerk's fees—Transcript 347f. 20c. f. $69.40
Cert. and seal - - .66

$70.06

UNITED STATES OF AMERICA, *ss:*

The president of the United States of America, to the judges of the circuit court of the United States, for the district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment of a plea which is in the said circuit court, before you, or

some of you, between the United States of America, plaintiffs, and John S. Roberts and James F. Reed, survivors of James Adams, deceased, defendants, a manifest error hath happened, to the great damage of the said United States of America, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this twenty-ninth day of December, in the year of our Lord one thousand eight hundred and forty-five, and of the independence of the United States the 70th year. [SEAL.]

WM. POPE,
Clerk cir't c't U. S., dist. of Ills.

Let a writ of error issue in the above named case, December 29, 1845.

NAT. POPE, *Judge.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the circuit court of the United States, for the district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment of a plea which is in the said circuit court, before you or some of you, between the United States of America, plaintiffs, and John S. Roberts and James F. Reed, survivors of James Adams, deceased, defendants, a manifest error hath happened, to the great damage of the said United States of America, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.